1951.

B. Village Panchayats /51

File No.

Legal Dept
13 BRANCH

Bill No. XVII of 1951

A Bill to amend the Bombay Village Panchayats Act, 1953

Bom. Act No. X of 1951

P 17 E

File No. B. Village Panchayats/51

Gen. 194 e.

736-B

Legal Department.

Section 91(2) of the Bombay Village Panchayats Act, 1933, relates to the recovery of any sum due to the panchayat under the Act and under section 92 any such sum could, therefore, be written off. Contractual due would not strictly be dues under the Act, inasmuch as they arise out of a contract: only the power of entering into a contract having been given by section 29 of the Act. Apart from the question whether in this particular case the sum could legally be claimed from the lessee, the amendment proposed by the Secretary, L.S.G. & P.H. D. is necessary in order to ~~th~~ authorise the Collector to write off sums due to the panchayat like the contractual dues which are not dues under the Act.

2. A requisite draft amendment is sent herewith. It is for consideration when the sum to be written off exceeds certain maximum limit (e.G. Rs. 500), the Collector may be required to obtain the previous sanction of Government.

3. It is presumed that a provision is not to be mad made authorising the panchayat to lease the levy of any tax or fees by public auction or private contract.

Additional Secretary to Government.

U.R. to L.S. G. and P.H.D. No. 12306 dated 28-8-1950

LSM / 4/7/56.

Legal Department.

A requisite draft Bill is sent herewith.

2. The other amendments to the Act, the drafts of which have been already sent to the Department, may be incorporated in this Bill so that a consolidated Bill may be taken up at the next session.

3. As pointed out in R.L.A.'s opinion No. 10550 dated 26th July 1950, in the Dondaicha village panchayat case, the words "the election of any member " in section 9(1) will according to circumstances mean the election of all members at a general election. Section 9 does not therefore require any amendment to show that it applies to by-elections, as well as general elections.

4. The subject matter of the Bill falls under entry No. 5 in List II in the Seventh Schedule to the Constitution. The Bill does not requ- require any sanction or recommendation.

Additional Secretary to Government.

U. R. to L.S.G. & P.H., No. 18128 dated the 21th December 1950.

SSM / 4/7/56.

No. 5718

Legal Department,

Bombay Castle (Bombay No.1), 10th April 1951.

From

Shri J. R. Dhurandhar,

Secretary to the Government of Bombay.

To

The Secretary to the Governor of Bombay.

Subject:- The Bombay Village Panchayats (Amendment) Bill, 1951.

Sir,

With reference to article 200 of the Constitution of India. I am directed to forward herewith for the assent of His Excellecy the Governor the authentic copy of the Bombay Village Panchayats (Amendment) Bill, 1951, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 27th and the 29th March 1951, respectively.

2. The subject-matter of the Bill falls under entry 5 in List II in the Seventh Schedule to the Constitution of India. As the Bill does not relate to any matter enumerated in the Concurrent Legislative List, it is not necessary to reserve the Bill fo. the condideration of the President with reference to article 254(2) of the Constitution of India.

3. The date on which His Excellency the Governor's assent is given may kindly be entered in the endorsement.

4. I also forward herewith one copy of each of

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	of the items Nos. 1, 2 and 4 and two copies of item No. 3 of the papers noted in the
2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.	
3. Bill as read for the third time and passed by the Bombay Legislative Council.	
4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 27th March 1951 and of the Bombay Legislative Council dated the 29th March 1951.	

margin. The Bill was not referred to a Select Committee.

Yours faithfully,

for Secretary to Government.

Through

The Secretary to the Government of Bombay,
Local Self Government & Public Health
Department.

SSM / 4/7/56.

No. G.S. -1001

From

THE SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Secretary to Government,
Legal Department.

Government House.
Bombay. April 14, 1951.

Subject:. The Bombay Village Panchayats (Amendment) Bill, 1951.

Sir,

With reference to your letter No. 5718, dated April 10, 1951, I am directed to return herewith the authentic copy of the Bombay Village Panchayats (Amendment) Bill, 1951, with His Excellency the Governor's assent signified thereon.

Yours faithfully,

Secretary to the Governor.

SSM / 4/7/56.

ACTS.

Publication of the

Bombay Village Panchayats (Amendment) Act, 1951.

GOVERNMENT OF BOMBAY.

Legal Department,

Resolution No. 6266

Bombay Castle, 18th April 1951.

Letter to the Secretary to the Governor, No. 5718, dated the 10th April 1951.

Letter from he Secretary to the Governor, No. G.S. 1001, dated the 14th April 1951.

"With reference to your letter No. 5718, dated April 10, 1951, I am dir cted to return herewith the authentic copy of the Bombay Village Panchayats (Amendment) Bill, 1951, with His Excellency the Governor's assent signified thereon".

RESOLUTION:- The law should be published as Bombay Act No. X of 1951, in the Bombay Government Gazette dated the 18th April 1951.

2. The Act should be translated into Marathi, Gujarathi, Kannada and Hindi (in Devnagari Script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Local Self Government and Public Health Department.

By order of the Governor of Bombay,

S. L. Chaudhari,
Deputy Secretary to Government.

To

The Manager, Government Central Press, Bombay

REGISTERED No. B-1

The

Bombay Government Gazette

PUBLISHED BY AUTHORITY

MONDAY, 5TH MARCH 1951.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations to be published in the " Bombay Government Gazette ". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. XVII OF 1951.

A Bill to amend the Bombay Village Panchayats Act, 1933.

Bom. VI of 1933.

WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Village Panchayats (Amendment) Act, 1951.

Amendment of section 8 of Bom. VI of 1933.

2. In section 8 of the Bombay Village Panchayats Act, 1933 (hereinafter referred to as the said Act), for clause (*h*) the following shall be substituted, namely :— Bom. VI of 1933.

" (*h*) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of the panchayat, or in any contract or employment with, or under, or by, or on behalf of the panchayat, or "

Amendment of section 9 of Bom. VI of 1933.

3. In section 9 of the said Act, in sub-section (*1*),—

(*1*) for the words " and that such illegality, corrupt practice or irregularity " the following shall be substituted, namely :—

" or that any error has been committed by any officer charged with carrying out the rules made under clause (*c*) of sub-section (*1*) of section 108 and that such illegality, corrupt practice, irregularity or error " ;

(*2*) after the proviso, the following Explanation shall be inserted, namely :—

" *Explanation.*—The expression error in this sub-section shall include any breach of, or any omission to carry out, or any non-compliance with, the provisions of the rules made under clause (*c*) of sub-section (*1*) of section 108. "

Amendment of section 33 of Bom. VI of 1933.

4. In section 33 of the said Act, for sub-section (*1*) the following shall be substituted, namely :—

" (*1*) Every panchayat shall appoint a Secretary who shall be a servant of the panchayat :

Provided that any two or more panchayats, if the villages for which they are established are situate within a distance of three miles from each of such villages and each such panchayat has an annual income not exceeding Rs. 1,500, may appoint one and the same person as the Secretary common to each of them. Such panchayats shall pay the salary and allowances of the Secretary in such proportion as the State Government may from time to time determine.

(*1A*) The qualifications, powers, duties, remuneration and conditions of service (including disciplinary matters) of such Secretary shall be such as may be prescribed."

Amendment of section 89 of Bom. VI of 1933.

5. In section 89 of the said Act, in sub-section (*2*), after clause (*vi d*), the following clause shall be inserted, namely :—

" (*vi e*) a fee for supply of water from wells and tanks vesting in it, for purposes other than domestic use;"

Amendment of section 92 of Bom VI of 1933.

6. In section 92 of the said Act,—

(*1*) after clause (*b*) ending with the word and figures " section 91 ;" the following clause shall be inserted, namely :—

" (*c*) any other sum due to a panchayat, whether under this Act or otherwise,";

(*2*) the following proviso shall be added at the end, namely :—

" Provided that no sum exceeding Rs. 500 shall be written off under clause (*c*), except with the previous sanction of the State Government."

STATEMENT OF OBJECTS AND REASONS.

The objects and reasons of the proposed amendments of the Bombay Village Panchayats Act, 1933, are explained below :—

Clause 2.—Under the existing provisions of clause (*h*) of section 8 of the Act a member of a village panchayat does not incur disqualification even if he has direct or indirect interest in the employment with, or under, or by a village panchayat. It is therefore proposed to amend this clause so as to bring it in line with section 9(*1*) (*e*) of the Bombay Local Boards Act, 1923.

Clause 3.—It has been found that under the existing provisions of section 9(*1*) of the Act a Collector has no power to declare an election as invalid if there were any material discrepancies in the voters' lists on the basis of which the election was held or there has taken place any other illegality, corrupt practice, etc. on the part of an officer charged with carrying out Bombay Village Panchayats Election Rules. It is proposed to amend this section in order to empower the Collector to declare such an election as invalid.

Clause 4.—Section 33(*1*) of the Act requires every village panchayat to appoint a full time secretary. Some of the smaller village panchayats which do not have substantial income, do not get full return for the money spent on the appointment of an independent and whole time secretary. It is, therefore, proposed to make provision in section 33 of the Act, to enable any two or more panchayats situated within a distance of 3 miles and each of them having an annual income not exceeding Rs. 1,500 to appoint the same person as the secretary common to each of them.

Clause 5.—At present there is no provision in the Act to allow a village panchayat to levy a fee for supply of water from wells and tanks vesting in it, for purposes other than domestic use. It is, therefore, proposed to make suitable provision for that purpose.

Clause 6.—It is proposed to empower the Collector to write off irrecoverable dues not specified in clauses (*a*) and (*b*) of section 92.

(Signed) G. D. VARTAK.

Dated the 28th February 1951.

By order of the Governor of Bombay,

J. R. DHURANDHAR,
Secretary to the Government of Bombay,
Legal Department.

Bombay, dated the 5th March 1951.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XVII OF 1951.

A Bill to amend the Bombay Village Panchayats Act, 1933.

(As read for the third time and passed by the Legislative Assembly on the 27th March 1951.)

Bom. VI of 1933. WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Bombay Village Panchayats (Amendment) Act, 1951.

Mo-V Bk Hb 696

Amendment of section 8 of Bom. VI of 1933.

2. In section 8 of the Bombay Village Panchayats Act, 1933 (hereinafter referred to as the said Act) for clause (*h*) the following shall be substituted, namely :— Bom. VI of 1933.

"(*h*) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of the panchayat, or in any contract or employment with, or under, or by, or on behalf of the panchayat, or "

Amendment of section 9 of Bom. VI of 1933.

3. In section 9 of the said Act, in sub-section (*1*),—

(*1*) for the words "and that such illegality, corrupt practice or irregularity" the following shall be substituted, namely :—

"or that any error has been committed by any officer charged with carrying out the rules made under clause (*c*) of sub-section (*1*) of section 108 and that such illegality, corrupt practice, irregularity or error" ;

(*2*) after the proviso, the following Explanation shall be inserted, namely :—

"*Explanation.*—The expression 'error' in this sub-section shall include any breach of, or any omission to carry out, or any non-compliance with, the provisions of the rules made under clause (*c*) of sub-section (*1*) of section 108."

Amendment of section 33 of Bom. VI of 1933.

4. In section 33 of the said Act, for sub-section (*1*) the following shall be substituted, namely :—

"(*1*) Every panchayat shall appoint a Secretary who shall be a servant of the panchayat :

Provided that any two or more panchayats, if the villages for which they are established are situate within a distance of three miles from each of such villages and each such panchayat has an annual income not exceeding Rs. 1,500, may appoint one and the same person as the Secretary common to each of them. Such panchayats shall pay the salary and allowances of the Secretary in such proportion as the State Government may from time to time determine.

Provided further that if there are more than one Panchayat established for villages within a distance of three miles from each of such villages, such panchayats not exceeding three in number may with the sanction of the State Government appoint one and the same person as the Secretary common to each of them, notwithstanding the fact that one of the said panchayats has an annual income exceeding Rs. 1,500.

(*1A*) The qualifications, powers, duties, remuneration and conditions of service (including disciplinary matters) of such Secretary shall be such as may be prescribed."

Amendment of section 89 of Bom. VI of 1933.

5. In section 89 of the said Act, in sub-section (*2*), after clause (*vi d*), the following clause shall be inserted, namely :—

"(*vi e*) a fee for supply of water from wells and tanks vesting in it, for purposes other than domestic use;".

Amendment of section 92 of Bom VI of 1933.

6. In section 92 of the said Act,—

(*1*) after clause (*b*) ending with the word and figures "section 91 ;" the following clause shall be inserted, namely :—

"(*c*) any other sum due to a panchayat, whether under this Act or otherwise,";

(*2*) the following proviso shall be added at the end, namely :—

"Provided that no sum exceeding Rs. 500 shall be written off under clause (*c*), except with the previous sanction of the State Government."

STATEMENT OF OBJECTS AND REASONS.

The objects and reasons of the proposed amendments of the Bombay Village Panchayats Act, 1933, are explained below :—

Clause 2.—Under the existing provisions of clause (*h*) of section 8 of the Act a member of a village panchayat does not incur disqualification even if he has direct or indirect interest in the employment with, or under, or by a village panchayat. It is therefore proposed to amend this clause so as to bring it in line with section 9(*1*) (*e*) of the Bombay Local Boards Act, 1923.

Clause 3.—It has been found that under the existing provisions of section 9(*1*) of the Act a Collector has no power to declare an election as invalid if there were any material discrepancies in the voters' lists on the basis of which the election was held or there has taken place any other illegality, corrupt practice, etc. on the part of an officer charged with carrying out Bombay Village Panchayats Election Rules. It is proposed to amend this section in order to empower the Collector to declare such an election as invalid.

Clause 4.—Section 33(*1*) of the Act requires every village panchayat to appoint a full time secretary. Some of the smaller village panchayats which do not have substantial income, do not get full return for the money spent on the appointment of an independent and whole time secretary. It is, therefore, proposed to make provision in section 33 of the Act, to enable any two or more panchayats situated within a distance of 3 miles and each of them having an annual income not exceeding Rs. 1,500 to appoint the same person as the secretary common to each of them.

Clause 5.—At present there is no provision in the Act to allow a village panchayat to levy a fee for supply of water from wells and tanks vesting in it, for purposes other than domestic use. It is, therefore, proposed to make suitable provision for that purpose.

Clause 6.—It is proposed to empower the Collector to write off irrecoverable dues not specified in clauses (*a*) and (*b*) of section 92.

G. D. VARTAK.

Dated the 28th February 1951.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XVII OF 1951.]

(As read for the third time and passed by the Legislative Assembly on the 27th March 1951.)

A Bill to amend the Bombay Village Panchayats Act, 1933.

[Shri G. D. VARTAK, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No

A Bill to amend the Bombay Village Panchayats Act, 1933.

(As read for the third time and passed by the Legislative Assembly on the 27th March 1951.)

(As read for the third time and passed by the Legislative Council on the 29th March 1951.)

Bom. VI of 1933. WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Bombay Village Panchayats (Amendment) Act, 1951.

Amendment of section 8 of Bom. VI of 1933.

2. In section 8 of the Bombay Village Panchayats Act, 1933 (hereinafter referred to as the said Act), for clause (*h*) the following shall be substituted, namely :— Bom. VI of 1933.

" (*h*) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of the panchayat, or in any contract or employment with, or under, or by, or on behalf of the panchayat, or "

Amendment of section 9 of Bom. VI of 1933.

3. In section 9 of the said Act, in sub-section (*1*),—

(*1*) for the words " and that such illegality, corrupt practice or irregularity " the following shall be substituted, namely :—

" or that any error has been committed by any officer charged with carrying out the rules made under clause (*c*) of sub-section (*1*) of section 108 and that such illegality, corrupt practice, irregularity or error " ;

(*2*) after the proviso, the following Explanation shall be inserted, namely :—

" *Explanation.*—The expression ' error ' in this sub-section shall include any breach of, or any omission to carry out, or any non-compliance with, the provisions of the rules made under clause (*c*) of sub-section (*1*) of section 108. "

Amendment of section 33 of Bom. VI of 1933.

4. In section 33 of the said Act, for sub-section (*1*) the following shall be substituted, namely :—

" (*1*) Every panchayat shall appoint a Secretary who shall be a servant of the panchayat :

Provided that any two or more panchayats, if the villages for which they are established are situate within a distance of three miles from each of such villages and each such panchayat has an annual income not exceeding Rs. 1,500, may appoint one and the same person as the Secretary common to each of them. Such panchayats shall pay the salary and allowances of the Secretary in such proportion as the State Government may from time to time determine.

Provided further that if there are more than one Panchayat established for villages within a distance of three miles from each of such villages, such panchayats not exceeding three in number may with the sanction of the State Government appoint one and the same person as the Secretary common to each of them, notwithstanding the fact that one of the said panchayats has an annual income exceeding Rs. 1,500.

(*1A*) The qualifications, powers, duties, remuneration and conditions of service (including disciplinary matters) of such Secretary shall be such as may be prescribed."

Amendment of section 89 of Bom. VI of 1933.

5. In section 89 of the said Act, in sub-section (*2*), after clause (*vi d*), the following clause shall be inserted, namely :—

" (*vi e*) a fee for supply of water from wells and tanks vesting in it, for purposes other than domestic use;".

Amendment of section 92 of Bom VI of 1933.

6. In section 92 of the said Act,—

(*1*) after clause (*b*) ending with the word and figures " section 91 ;" the following clause shall be inserted, namely :—

" (*c*) any other sum due to a panchayat, whether under this Act or otherwise,";

(*2*) the following proviso shall be added at the end, namely :—

" Provided that no sum exceeding Rs. 500 shall be written off under clause (*c*), except with the previous sanction of the State Government."

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XVII OF 1951.]

(As read for the third time and passed by the Legislative Assembly on the 27th March 1951.)

(As read for the third time and passed by the Legislative Council on the 29th March 1951.)

A Bill to amend the Bombay Village Panchayats Act, 1933.

[Shri. G. D. VARTAK, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

Registered No. B-1

The

Bombay Government Gazette

PUBLISHED BY AUTHORITY

WEDNESDAY, 18TH APRIL 1951.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Bombay Legislature and Ordinances promulgated and Regulations made by the Governor.

CONTENTS.

	Pages
BOMBAY ACT No. X OF 1951—An Act to amend the Bombay Village Panchayats Act, 1933 ...	35-36

The following Act of the Bombay Legislature having been assented to by the Governor on the 13th April 1951, is hereby published for general information.

J. R. DHURANDHAR,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. X OF 1951.

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 18th April 1951.)

An Act to amend the Bombay Village Panchayats Act, 1933.

Bom. VI of 1933. WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Bombay Village Panchayats (Amendment) Act, 1951.

Amendment of section 8 of Bom. VI of 1933.

2. In section 8 of the Bombay Village Panchayats Act, 1933 (hereinafter referred to as the said Act), for clause (*h*) the following shall be substituted, namely :— Bom. VI of 1933.

"(*h*) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of the panchayat, or in any contract or employment with, or under, or by, or on behalf of the panchayat, or"

Amendment of section 9 of Bom. VI of 1933.

3. In section 9 of the said Act, in sub-section (*1*),—

(*1*) for the words "and that such illegality, corrupt practice or irregularity" the following shall be substituted, namely :—

"or that any error has been committed by any officer charged with carrying out the rules made under clause (*c*) of sub-section (*1*) of section 108 and that such illegality, corrupt practice, irregularity or error";

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"(*1*) Every panchayat shall appoint a Secretary who shall be a servant of the panchayat :

Provided that any two or more panchayats, if the villages for which they are established are situate within a distance of three miles from each of such villages and each such panchayat has an annual income not exceeding Rs. 1,500, may appoint one and the same person as the Secretary common to each of them. Such panchayats shall pay the salary and allowances of the Secretary in such proportion as the State Government may from time to time determine.

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"(*c*) any other sum due to a panchayat, whether under this Act or otherwise,";

(*2*) the following proviso shall be added at the end, namely :—

"Provided that no sum exceeding Rs. 500 shall be written off under clause (*c*), except with the previous sanction of the State Government."

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.